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By order of MR. H. DOW, I will sell at Public Auction at my salesroom, 65 Queen street,

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ON TUESDAY, AUGUST 20,  
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At my salesroom, 65 Queen street, I will sell at Public Auction, by order of the UNITED CHINESE SOCIETY, the lease of that lot in the rear of the City Mill Co., on the corner of King and Kekaulike streets.

Lot contains an area of 2,200 square feet, more or less.

Lease is for a term of thirty years at an upset yearly rental of \$60, payable annually in advance.

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## ALL ARE CITIZENS

Chinese Born in Kingdom Are Americans.

AT THE TIME OF ANNEXATION

Judge Estee Makes Sweeping Decision, Extending Citizenship to All Native Born.

Judge Estee of the United States Court handed down an opinion yesterday holding that all residents of the Hawaiian Islands, whether born under the monarchy or during the life of the republic became citizens of the United States, when annexation took place. The ruling was in the case of two Chinese boys, brothers, Ching Tai Sun and Ching Tai Sai, who were born in the Islands during the kingdom and returned to China ten years ago. When they attempted to re-enter this month they were arrested as having no registration papers. Their birth in the Islands was admitted, but it was contended that they lost their citizenship by not being residents of the republic when it became a part of the United States. The decision of Judge Estee is sweeping, in that it gives citizenship to every Chinese born in the Islands.

The opinion is quoted in full below: This is a proceeding for the deportation of Ching Tai Sai and Ching Tai Sun, two Chinese persons arrested upon complaint of E. R. Hendry, a deputy United States Marshal for the District of Hawaii, on the ground that they were Chinese laborers within the limits of the United States and also of the District of Hawaii, without certificates of residence required by the Act of Congress, approved May 5th, 1892, and the Act of November 3rd, 1893, amendatory thereof, and the Acts of Congress, approved April 30th, 1900, providing a government for the Territory of Hawaii.

Both defendants answered, claiming to have been born in the Hawaiian Islands, and each to be an American citizen. By stipulation between the attorneys it was agreed that both cases should be heard and decided together. On the hearing that these defendants were Chinese boys of the age respectively of eighteen and twenty years. It was admitted that they were born in the Hawaiian Islands of Chinese parents when the government of the Islands was a constitutional monarchy, their father being a Chinese laborer and a citizen of China; that when the boys reached the age of eight and ten years respectively, the father took them to China, where he returned to the Islands himself one year thereafter.

The boys remained in China for ten years, coming back on or about July 9th of this year, on the steamer "Peru."

During the ten years' absence of the defendants from the Islands, several governmental changes took place here. The monarchy first gave way to a provisional government, ultimately resulting in the Republic of Hawaii, and finally in the annexation of the Islands by the United States as a Territory, which occurred on July 7th, 1898, by reason of the Newlands' Resolution, so-called.

The question was raised upon the argument that as these boys were born under the government of the Kingdom of Hawaii, and not under that of the Republic of Hawaii, which was the existing government when the Islands were annexed, and had left the Islands and were living in China when these Islands became a republic and afterwards a Territory of the United States, that they were not included in those who were admitted to be citizens of the United States by the Act of Congress, approved April 30th, 1900.

In the Act of April 30th, 1900 (Vol. 31, U. S. Stats., page 141), entitled an "Act to provide a government for the Territory of Hawaii," it is prescribed by section 4 thereof, relating to the question of the American citizenship of the people of the Islands.

"That all persons who were citizens of the Republic of Hawaii on August twelfth, eighteen hundred and ninety-eight, are hereby declared to be citizens of the United States and citizens of the Territory of Hawaii."

The question then presented and the main question concerning the birth of these boys in the Hawaiian Islands at the time stated, is, "who were citizens of the Republic of Hawaii on August twelfth, eighteen hundred and ninety-eight?"

In this connection it will be necessary to review a little of the history of the annexation proceedings of this Territory.

On July 7th, 1898, the Congress of the United States passed a joint resolution (Vol. 30, U. S. Stats., page 750), wherein the Hawaiian Islands were annexed as a part of the Territory of the United States and became subject to the sovereign dominion thereof, although the actual and formal cession of the sovereignty was not made until August 12th, 1898, when the Hon. Sanford B. Dole, the President of the then Republic of Hawaii, formally turned the same over to the Hon. Harold M. Sewall, representing the Government of the United States, and the United States flag was raised over the dome of the executive building.

When the cession was made, the government of the Hawaiian Islands was a republic, with a written constitution, which constitution prescribed who were citizens of that republic, that is to say: Article 17, section 1 of that Constitution provided:

"That all persons born or naturalized in the Hawaiian Islands and subject to the jurisdiction of the Republic, are citizens thereof."

The provision of the Constitution of Hawaii controls as to who constituted its citizens. The only question being as to the construction of the clause "subject to the jurisdiction thereof."

In arriving at an interpretation of the above section of the Constitution of the Republic of Hawaii we are aided by the construction given to the Constitution of the United States, which has a provision in almost the exact terms of that of the Constitution of Hawaii, namely, the Fourteenth Amendment thereof which provides:

"Section 1. All persons born or natu-

alized in the United States and subject to the jurisdiction thereof are citizens of the United States."

While the question as to whether a child born in the United States of foreign parents is or is not an American citizen has never been directly decided by the Supreme Court of the United States, yet it has been decided by the Courts of the Ninth Circuit, and notably in the case of "In re Look Tin Sing," reported in 21 Fed. Rep., 905, when Judge Field, then a justice of the Supreme Court of the United States, sitting with Judge Sawyer, a Circuit and Judge Hoffman, a District Judge, of that circuit, says, in construing the Fourteenth Amendment, above quoted—

"They alone are subject to the jurisdiction of the United States who are within their dominions and under the protection of their laws and within the consequent obligation to obey them when obedience can be rendered; and only those thus subject by their birth or naturalization are within the terms of the amendment. The jurisdiction over these latter must at the time be both actual and exclusive. The words mentioned (subject to the jurisdiction thereof), except from citizenship children born in the United States persons engaged in the diplomatic service of foreign governments, such as ministers and ambassadors, whose residence by a fiction of public law is regarded as part of their own country. . . . The language used has also a more extended purpose. It was designed to except from citizenship persons who though born or naturalized in the United States have renounced their allegiance to our government and thus dissolved their political connection with this country."

In the case of Gee Fook Sing, reported in 49 Fed. Rep., at page 147, the Circuit Court of Appeals for the District of Oregon, also passed upon the question of the construction of the Fourteenth Amendment to the Constitution of the United States, wherein the court (Deady, J.) says—

"That inasmuch as the Fourteenth Amendment to the Constitution of the United States declares that all persons born in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside, the laws excluding emigrants who are Chinese laborers are inapplicable to a person born in the country and subject to the jurisdiction of its government, even though his parents are not citizens nor entitled to become citizens under the laws providing for the naturalization of aliens."

And see also to the same effect the decision of Judge Morrow, a Circuit Judge of this Circuit, in the case of In re Wong Kim Ark, reported in 71 Fed. Rep., 382.

It would however, not seem necessary to go beyond the decisions of the Supreme Court of the Republic of Hawaii, as to the construction of its constitution. It has been decided by that court, in the case of a child born of British parents in the Hawaiian Islands, when the government of the Islands was that of a monarchy, and whose parents were British subjects, and the birth of which child had been registered at the British Consulate, that such child was subject to the jurisdiction of the country and was an Hawaiian subject and citizen. (In the matter of the application of George MacFarlane for a Writ of Mandamus, Vol. 11, Hawaiian Rep., page 160.)

There is no attempt in this case to show that these boys were other than sons of a Chinese laborer domiciled in the Hawaiian Islands and a subject of the Chinese Empire, when they were born.

Upon an examination of the Constitution of the Kingdom of Hawaii and the laws thereof, I find nothing at the date of the birth of either boys defining the status of children born of aliens domiciled in the Hawaiian Islands which would tend to throw any light upon the status of these defendants. And the rules of international law would prevail in the absence of any especial enactment in relation thereto, and the citizenship of the children follow that of the father, in this case a subject of China, if it were not for the fact that the Constitution of Hawaii has provided in terms "that all persons born or naturalized in the Islands and subject to the jurisdiction thereof are citizens of the Republic."

As was said by Judge Morrow in his very exhaustive and well-considered opinion in the case of In re Wong Kim Ark, above referred to, quoting from page 392, above referred to—

"The doctrine of the law of nations that the child follows the nationality of the parents and that citizenship does not depend upon mere accidental place of birth, is undoubtedly more reasonable, logical and satisfactory, but this consideration will not justify this court in declaring it to be the law against controlling judicial authority. In this case the question to be determined is as to the political status and rights of Wong Kim Ark under the law in this country."

It seems clear to me that as to the question of citizenship that both the framers of the Constitution of the Republic of Hawaii, and of the Act of Congress providing a government for the Territory of Hawaii (Section 4 thereof) intended to refer especially to the geographical limits of the Hawaiian Islands rather than to any political considerations found here, and that Hawaiian and American citizenship was to be extended to all persons born in these Islands, with the exception only of those "children born of persons engaged in the diplomatic service of foreign governments, such as ministers and ambassadors, whose residence by a fiction of public law is regarded as part of their own country."

These defendants having proven their birth in these Islands and not belonging to the excepted persons above noted, under the law they are citizens of the United States and of this Territory, and as such entitled to remain.

Let them be discharged from custody.

ESTEE, Judge.

August 13, 1901.

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### Corporation Notices.

McBRYDE SUGAR CO., Ltd.

NOTICE IS HEREBY GIVEN THAT the twelfth and final assessment of 15 per cent (\$3.00 per share), levied on the assessable stock of the McBryde Sugar Co., Ltd., is due on September 2, 1901, and will be delinquent on September 16, 1901.

Stockholders will please make prompt payment at the office of Messrs. Theo. H. Davies & Co., Ltd.

F. M. SWANZY,  
Treasurer McBryde Sugar Co., Ltd.  
Honolulu, August 7, 1901. 5931

### NOTICE.

A SPECIAL MEETING OF THE stockholders of the Hawaiian Agricultural Company will be held at the office of C. Brewer & Co., Ltd., in Honolulu on Wednesday, August 14, 1901, at 9:30 a. m.

E. F. BISHOP, Secretary.  
Dated Honolulu, August 10, 1901. 5934

### NOTICE.

SPECIAL MEETING OF STOCKHOLDERS OF E. O. HALL & SON, LTD.

THERE WILL BE A SPECIAL meeting of the stockholders of E. O. Hall & Son, Ltd., at the office of the company in the Safe Deposit building, on Thursday, August 15, 1901, at 2 p. m., for the purpose of discussing matters relative to the destruction of their business block and stock of merchandise, and to take action on such matters as may be of importance, as occasioned by the late disaster. It is earnestly requested that all stockholders may be present.

E. H. PARIS,  
Secretary E. O. Hall & Son, Ltd.  
5931

### Ookala Sugar Plantation Co.

THE STOCKBOOKS OF THE above company will be closed to transfers from Monday, the 12th, to Thursday, the 15th instant, inclusive.

The monthly dividend of 1 per cent will be due and payable on the 15th instant, at the office of C. Brewer & Co., Ltd., Queen street, Honolulu.

G. H. ROBERTSON,  
Treasurer Ookala Sugar Plantation Company.  
Honolulu, August 9, 1901. 5931

### Hawaiian Agricultural Co.

THE STOCKBOOKS OF THE above company will be closed to transfers from Monday, the 12th, to Thursday, the 15th instant, inclusive.

G. H. ROBERTSON,  
Treasurer Hawaiian Agricultural Company.  
Honolulu, August 9, 1901. 5931

### Honolulu Sugar Company.

THE STOCKBOOKS OF THE above company will be closed to transfers from Monday, the 12th, to Thursday, the 15th instant, inclusive.

G. H. ROBERTSON,  
Treasurer Honolulu Sugar Co.  
Honolulu, August 9, 1901. 5931

### KIHEI ASSESSMENT NOTICE

THE THIRTEENTH AND FINAL assessment of 5 per cent, or \$2.50 per share, on the Kihel Plantation Co., Ltd., stock, has been levied, and will become due and payable at the offices of Alexander & Baldwin, Ltd., on the 15th day of June, 1901. Interest bearing after the 15th day of July, 1901.

J. P. COOKE,  
Treas., Kihel Plantation Co., Ltd.  
Honolulu, May 20, 1901. 5861

### STOCKHOLDERS' MEETING.

A SPECIAL MEETING OF THE stockholders of the Honokaa Sugar Company will be held at the office of F. A. Schaefer & Co., on Friday, the 16th day of August, 1901, at 10 a. m., for the purpose of considering amendments to the company's by-laws and the transaction of general business.

Per order. W. LANZ,  
5932 Secretary.

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